



Reprinted
February 27, 2008

ENGROSSED HOUSE BILL No. 1052

DIGEST OF HB 1052 (Updated February 26, 2008 5:20 pm - DI 107)

Citations Affected: IC 9-13; IC 9-24; IC 9-26; IC 9-30; IC 35-50; noncode.

Synopsis: Motorist duties at accident scenes and operating while intoxicated offenses. Requires an examination for a learner's permit to test the applicant's knowledge of the duty to stop and provide assistance. Provides that the law requiring a driver involved in an accident to stop at the accident scene, notify the appropriate law enforcement agency, and render reasonable assistance applies if the accident results in the entrapment of a person in a vehicle. (Under current law, the law applies only if the accident results in the injury or death of a person.) Provides that if the driver is physically incapable of notifying the appropriate law enforcement agency or rendering reasonable assistance, the duty to notify or to render reasonable assistance is imposed on a passenger in the driver's vehicle who is capable of discharging the duty if the passenger is: (1) at least 15 years
(Continued next page)

Effective: July 1, 2008.

Neese, Hoy, Thompson

(SENATE SPONSORS — RIEGSECKER, STEELE, LANANE)

January 8, 2008, read first time and referred to Committee on Courts and Criminal Code.
January 15, 2008, amended, reported — Do Pass.
January 28, 2008, read second time, ordered engrossed. Engrossed.
January 29, 2008, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

January 29, 2008, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
February 21, 2008, amended, reported favorably — Do Pass.
February 26, 2008, read second time, amended, ordered engrossed.

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of age and holds a learner's permit or driver's license; or (2) at least 18 years of age. Provides that a passenger commits a Class C misdemeanor if the passenger fails to notify or to render reasonable assistance when the duty is imposed upon the passenger. Provides that a person who knowingly, intentionally, or recklessly violates the law requiring a driver or a passenger to take certain actions at the scene of an accident commits a Class C misdemeanor. Specifies that felony resisting law enforcement and operating while intoxicated (OWI) causing serious bodily injury are crimes of violence. Makes: (1) OWI committed by a person with a previous conviction for OWI resulting in serious bodily injury a Class C felony; (2) OWI causing serious bodily injury a Class C felony; (3) OWI causing serious bodily injury committed by a person with a previous conviction for OWI a Class B felony; and (4) OWI causing death committed by a person with a blood alcohol level greater than .15% a Class A felony. Permits a court to require a license suspension imposed as the result of a conviction for operating while intoxicated to be imposed before or after, or both before and after, any period of incarceration. Makes leaving the scene of an accident after committing operating while intoxicated causing death: (1) or serious bodily injury a Class B felony; and (2) and failing to comply with certain driver's duties, a Class A felony.

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February 27, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1052

A BILL FOR AN ACT to amend the Indiana Code concerning
criminal law and procedure and motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-13-2-49.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 49.7. "Entrapment" means a confining circumstance**
4 **from which escape or relief is difficult or impossible.**

5 SECTION 2. IC 9-24-10-4 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Except as
7 provided in subsection (c), an examination for a learner's permit must
8 consist of a test of the applicant's eyesight **and knowledge of**
9 **IC 9-26-1-1.5.** All other examinations must include the following:

10 (1) A test of the following of the applicant:

11 (A) Eyesight.

12 (B) Ability to read and understand highway signs regulating,
13 warning, and directing traffic.

14 (C) Knowledge of Indiana traffic laws, **including**
15 **IC 9-26-1-1.5.**

16 (2) An actual demonstration of the applicant's ability to exercise
17 ordinary and reasonable control in the operation of a motor

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vehicle under the type of permit or license applied for.

(b) The examination may include further physical and mental examination that the bureau finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon Indiana highways. The applicant must provide the motor vehicle used in the examination.

(c) The bureau shall waive the actual demonstration required under subsection (a)(2) for a person who has passed a driver's education class and a road test given by a commercial driver training school or a high school driver education program.

(d) The bureau shall adopt rules under IC 4-22-2 specifying requirements for a road test given under subsection (c) by a commercial driver training school or a high school driver education program.

SECTION 3. IC 9-26-1-1, AS AMENDED BY P.L.210-2005, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The driver of a vehicle involved in an accident that results in the injury or death of a person **or the entrapment of a person in a vehicle** shall do the following:

(1) Immediately stop the **driver's** vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.

(2) Immediately return to and remain at the scene of the accident until the driver does the following:

(A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.

(B) Upon request, exhibits the driver's license of the driver to the following:

(i) The person struck.

(ii) The driver or occupant of or person attending each vehicle involved in the accident.

(C) **Subject to section 1.5(a) of this chapter**, determines the need for and renders reasonable assistance to each person injured **or entrapped** in the accident, including the removal or the making of arrangements for:

(i) the removal of each injured person **from the scene of the accident** to a physician or hospital for medical treatment; **and**

(ii) **the removal of each entrapped person from the vehicle in which the person is entrapped.**

(3) **Subject to section 1.5(b) of this chapter**, immediately give notice of the accident by the quickest means of communication to

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one (1) of the following:

(A) The local police department if the accident occurs within a municipality.

(B) The office of the county sheriff or the nearest state police post if the accident occurs outside a municipality.

(4) Within ten (10) days after the accident, forward a written report of the accident to the:

(A) state police department, if the accident occurs before January 1, 2006; or

(B) bureau, if the accident occurs after December 31, 2005.

SECTION 4. IC 9-26-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. (a) If:**

(1) the driver of a vehicle is physically incapable of determining the need for or rendering assistance to any injured or entrapped person as required under section 1(2)(C) of this chapter; and

(2) there is another occupant in the vehicle at the time of the accident who is:

(A) at least:

(i) fifteen (15) years of age and holds a learner's permit issued under IC 9-24-7-1 or a driver's license issued under IC 9-24-11; or

(ii) eighteen (18) years of age; and

(B) capable of determining the need for and rendering reasonable assistance to injured or entrapped persons as provided in section 1(2)(C) of this chapter;

the vehicle occupant referred to in subdivision (2) shall immediately determine the need for and render reasonable assistance to each person injured or entrapped in the accident as provided in section 1(2)(C) of this chapter.

(b) If:

(1) the driver of a vehicle is physically incapable of giving immediate notice of an accident as required under section 1(3) of this chapter; and

(2) there is another occupant in the vehicle at the time of the accident who is:

(A) at least:

(i) fifteen (15) years of age and holds a learner's permit issued under IC 9-24-7-1 or a driver's license issued under IC 9-24-11; or

(ii) eighteen (18) years of age; and

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1 (B) capable of giving notice as provided in section 1(3) of
2 this chapter;

3 the vehicle occupant referred to in subdivision (2) shall
4 immediately give notice of the accident by the quickest means of
5 communication as provided in section 1(3) of this chapter.

6 (c) If there is more than one (1) vehicle occupant to whom
7 subsection (a) applies, it is a defense to a prosecution of one (1)
8 vehicle occupant under subsection (a) that the defendant
9 reasonably believed that another occupant of the vehicle
10 determined the need for and rendered reasonable assistance as
11 required under subsection (a).

12 (d) If there is more than one (1) vehicle occupant to whom
13 subsection (b) applies, it is a defense to a prosecution of one (1)
14 vehicle occupant under subsection (b) that the defendant
15 reasonably believed that another occupant of the vehicle gave the
16 notice required under subsection (b).

17 SECTION 5. IC 9-26-1-2, AS AMENDED BY P.L.210-2005,
18 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2008]: Sec. 2. The driver of a vehicle involved in an accident
20 that does not result in injury or death of a person **or the entrapment**
21 **of a person in a vehicle** but that does result in damage to a vehicle that
22 is driven or attended by a person shall do the following:

23 (1) Immediately stop the vehicle at the scene of the accident or as
24 close to the accident as possible in a manner that does not
25 obstruct traffic more than is necessary.

26 (2) Immediately return to and remain at the scene of the accident
27 until the driver does the following:

28 (A) Gives the driver's name and address and the registration
29 number of the vehicle the driver was driving.

30 (B) Upon request, exhibits the driver's license of the driver to
31 the driver or occupant of or person attending each vehicle
32 involved in the accident.

33 (3) If the accident results in total property damage to an apparent
34 extent of at least one thousand dollars (\$1,000), forward a written
35 report of the accident to the:

36 (A) state police department, if the accident occurs before
37 January 1, 2006; or

38 (B) bureau, if the accident occurs after December 31, 2005;
39 within ten (10) days after the accident.

40 SECTION 6. IC 9-26-1-6 IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) If:

42 (1) the driver of a vehicle is physically incapable of making an

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1 ~~immediate~~ or a written report of an accident as required by this
 2 chapter; and
 3 (2) there was another occupant in the vehicle at the time of the
 4 accident capable of making ~~an immediate~~ or a written report;
 5 the occupant shall make or cause to be made the report not made by the
 6 driver.

7 (b) If:

- 8 (1) the driver of a vehicle is physically incapable of making an
 9 immediate or a written report of an accident as required by this
 10 chapter;
 11 (2) there was no other occupant; and
 12 (3) the driver is not the owner of the vehicle;
 13 the owner of the vehicle involved in the accident shall, within five (5)
 14 days after the accident, make the report not made by the driver.

15 SECTION 7. IC 9-26-1-8 IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A person who **knowingly or**
 17 **intentionally** fails to stop or comply with section 1(1) or 1(2) of this
 18 chapter after causing injury to a person commits a Class A
 19 misdemeanor. However, the offense is:

20 (1) a Class D felony if:

- 21 (A) the accident involves serious bodily injury to a person; or
 22 (B) within the five (5) years preceding the commission of the
 23 offense, the person had a previous conviction of any of the
 24 offenses listed in IC 9-30-10-4(a); ~~and~~

25 (2) a Class C felony if the accident involves the death of a person;

26 **(3) a Class B felony if the person knowingly or intentionally**
 27 **fails to stop or comply with section 1(1) or 1(2) of this chapter**
 28 **after committing operating while intoxicated causing serious**
 29 **bodily injury (IC 9-30-5-4); and**

30 **(4) a Class A felony if the person knowingly or intentionally**
 31 **failed to stop or comply with section 1(1) or 1(2) of this**
 32 **chapter after committing operating while intoxicated causing**
 33 **death (IC 9-30-5-5).**

34 (b) A person who **knowingly or intentionally** fails to stop or
 35 comply with section 3 or 4 of this chapter after causing damage to the
 36 property of another person commits a Class B misdemeanor.

37 SECTION 8. IC 9-26-1-9 IS AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2008]: Sec. 9. A person who **intentionally,**
 39 **knowingly, or recklessly** violates section 1(3), 1.5, 2(1), or 2(2) of this
 40 chapter commits a Class C misdemeanor.

41 SECTION 9. IC 9-30-5-3 IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2008]: Sec. 3. **(a) Except as provided in**

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subsection (b), a person who violates section 1 or 2 of this chapter commits a Class D felony if:

(1) the person has a previous conviction of operating while intoxicated that occurred within the five (5) years immediately preceding the occurrence of the violation of section 1 or 2 of this chapter; or

(2) the person:

(A) is at least twenty-one (21) years of age;

(B) violates section 1(b) or 2(b) of this chapter; and

(C) operated a vehicle in which at least one (1) passenger was less than eighteen (18) years of age.

(b) A person who violates section 1 or 2 of this chapter commits a Class C felony if:

(1) the person has a previous conviction of operating while intoxicated causing death (IC 9-30-5-5); or

(2) the person has a previous conviction of operating while intoxicated causing serious bodily injury (IC 9-30-5-4).

SECTION 10. IC 9-30-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A person who causes serious bodily injury to another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; or

(3) while intoxicated;

commits a ~~Class D~~ **Class C** felony. However, the offense is a ~~Class E~~ **Class B** felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense.

(b) A person who violates subsection (a) commits a separate offense for each person whose serious bodily injury is caused by the violation of subsection (a).

(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 11. IC 9-30-5-5, AS AMENDED BY P.L.2-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A person who causes the death of another

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person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or

(3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense, or if the person operated the motor vehicle when the person knew that the person's driver's license, driving privilege, or permit is suspended or revoked for a previous conviction for operating a vehicle while intoxicated.

(b) A person at least twenty-one (21) years of age who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath; or

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood;

commits a ~~Class B~~ Class A felony.

(c) A person who violates subsection (a) or (b) commits a separate offense for each person whose death is caused by the violation of subsection (a) or (b).

(d) It is a defense under subsection (a)(2) or subsection (b)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 12. IC 9-30-5-10, AS AMENDED BY P.L.172-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or IC 14-15-8, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section. **The court may require that a period of suspension recommended under this section be imposed, if applicable, before a period of incarceration or after a period of incarceration, or both before and after a period of incarceration, as long as the suspension otherwise complies with**

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the periods established in this section.

(b) If the court finds that the person:

(1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or

(2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than two (2) years.

(c) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court shall order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. However, the court may grant probationary driving privileges under this subsection without requiring the installation of an ignition interlock device if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse. The person granted probationary driving privileges under this subsection shall pay all costs associated with the installation of an ignition interlock device unless the sentencing court determines that the person is indigent.

(e) If the conviction under consideration by the court is for an

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offense under:

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- (3) IC 14-15-8-8(b); or
- (4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the offense, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

SECTION 13. IC 35-50-1-2, AS AMENDED BY P.L.1-2006, SECTION 549, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) As used in this section, "crime of violence" means **the following:**

- (1) Murder (IC 35-42-1-1).
- (2) Attempted murder (IC 35-41-5-1).
- (3) Voluntary manslaughter (IC 35-42-1-3).
- (4) Involuntary manslaughter (IC 35-42-1-4).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Aggravated battery (IC 35-42-2-1.5).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Rape (IC 35-42-4-1).
- (9) Criminal deviate conduct (IC 35-42-4-2).
- (10) Child molesting (IC 35-42-4-3).
- (11) Sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2).
- (12) Robbery as a Class A felony or a Class B felony (IC 35-42-5-1).
- (13) Burglary as a Class A felony or a Class B felony (IC 35-43-2-1). ~~or~~
- (14) **Operating a motor vehicle while intoxicated** causing death ~~when operating a motor vehicle~~ (IC 9-30-5-5).
- (15) **Operating a motor vehicle while intoxicated causing serious bodily injury to another person (IC 9-30-5-4).**
- (16) **Resisting law enforcement as a felony (IC 35-44-3-3).**

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently

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or consecutively. The court may consider the:

- (1) aggravating circumstances in IC 35-38-1-7.1(a); and
- (2) mitigating circumstances in IC 35-38-1-7.1(b);

in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the advisory sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted.

(d) If, after being arrested for one (1) crime, a person commits another crime:

- (1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime; or
- (2) while the person is released:
 - (A) upon the person's own recognizance; or
 - (B) on bond;

the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.

(e) If the factfinder determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.

SECTION 14. [EFFECTIVE JULY 1, 2008] IC 9-26-1-8, IC 9-30-5-3, IC 9-30-5-4, and IC 9-30-5-5, all as amended by this act, apply only to crimes committed after June 30, 2008.

SECTION 15. [EFFECTIVE JULY 1, 2008] IC 9-26-1-1, IC 9-26-1-2, IC 9-26-1-6, and IC 9-26-1-9, all as amended by this act, and IC 9-26-1-1.5, as added by this act, apply only to crimes committed after June 30, 2008.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1052, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 30, after "is" insert ":

(A) at least fifteen (15) years and six (6) months of age; and (B)".

Page 2, line 42, after "is" insert ":

(A) at least fifteen (15) years and six (6) months of age; and (B)".

and when so amended that said bill do pass.

(Reference is to HB 1052 as introduced.)

HOY, Chair

Committee Vote: yeas 10, nays 0.

SENATE MOTION

Madam President: I move that Senator Lanane be added as cosponsor of Engrossed House Bill 1052.

RIEGSECKER

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1052, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-13-2-49.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 49.7. "Entrapment" means a confining circumstance from which escape or relief is difficult or impossible.**

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SECTION 2. IC 9-24-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Except as provided in subsection (c), an examination for a learner's permit must consist of a test of the applicant's eyesight **and knowledge of IC 9-26-1-1.5**. All other examinations must include the following:

(1) A test of the following of the applicant:

(A) Eyesight.

(B) Ability to read and understand highway signs regulating, warning, and directing traffic.

(C) Knowledge of Indiana traffic laws, **including IC 9-26-1-1.5**.

(2) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle under the type of permit or license applied for.

(b) The examination may include further physical and mental examination that the bureau finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon Indiana highways. The applicant must provide the motor vehicle used in the examination.

(c) The bureau shall waive the actual demonstration required under subsection (a)(2) for a person who has passed a driver's education class and a road test given by a commercial driver training school or a high school driver education program.

(d) The bureau shall adopt rules under IC 4-22-2 specifying requirements for a road test given under subsection (c) by a commercial driver training school or a high school driver education program."

Page 2, line 31, delete "least" and insert "**least:**

(i)".

Page 2, line 31, delete "and six (6) months of age; and" and insert "**of age and holds a learner's permit issued under IC 9-24-7-1 or a driver's license issued under IC 9-24-11; or**

(ii) **eighteen (18) years of age; and**".

Page 3, line 3, delete "least" and insert "**least:**

(i)".

Page 3, line 3, delete "and six (6) months of age; and" and insert "**of age and holds a learner's permit issued under IC 9-24-7-1 or a driver's license issued under IC 9-24-11; or**

(ii) **eighteen (18) years of age; and**".

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Page 4, line 20, delete "1(2)(C)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1052 as printed January 16, 2008.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

SENATE MOTION

Madam President: I move that Senator Steele be added as a second sponsor of Engrossed House Bill 1052.

RIEGSECKER

SENATE MOTION

Madam President: I move that Engrossed House Bill 1052 be amended to read as follows:

Delete the title and insert the following:

"A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure and motor vehicles."

Page 5, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 7. IC 9-26-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A person who **knowingly or intentionally** fails to stop or comply with section 1(1) or 1(2) of this chapter after causing injury to a person commits a Class A misdemeanor. However, the offense is:

(1) a Class D felony if:

- (A) the accident involves serious bodily injury to a person; or
- (B) within the five (5) years preceding the commission of the offense, the person had a previous conviction of any of the offenses listed in IC 9-30-10-4(a); ~~and~~

(2) a Class C felony if the accident involves the death of a person;

(3) a Class B felony if the person knowingly or intentionally fails to stop or comply with section 1(1) or 1(2) of this chapter after committing operating while intoxicated causing serious bodily injury (IC 9-30-5-4); and

(4) a Class A felony if the person knowingly or intentionally

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failed to stop or comply with section 1(1) or 1(2) of this chapter after committing operating while intoxicated causing death (IC 9-30-5-5).

(b) A person who **knowingly or intentionally** fails to stop or comply with section 3 or 4 of this chapter after causing damage to the property of another person commits a Class B misdemeanor."

Page 5, between lines 18 and 19, begin a new paragraph and insert:
"SECTION 9. IC 9-30-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. **(a) Except as provided in subsection (b),** a person who violates section 1 or 2 of this chapter commits a Class D felony if:

- (1) the person has a previous conviction of operating while intoxicated that occurred within the five (5) years immediately preceding the occurrence of the violation of section 1 or 2 of this chapter; or
- (2) the person:
 - (A) is at least twenty-one (21) years of age;
 - (B) violates section 1(b) or 2(b) of this chapter; and
 - (C) operated a vehicle in which at least one (1) passenger was less than eighteen (18) years of age.

(b) A person who violates section 1 or 2 of this chapter commits a Class C felony if:

- (1) the person has a previous conviction of operating while intoxicated causing death (IC 9-30-5-5); or**
- (2) the person has a previous conviction of operating while intoxicated causing serious bodily injury (IC 9-30-5-4).**

SECTION 10. IC 9-30-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A person who causes serious bodily injury to another person when operating a motor vehicle:

- (1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:
 - (A) one hundred (100) milliliters of the person's blood; or
 - (B) two hundred ten (210) liters of the person's breath;
- (2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; or
- (3) while intoxicated;

commits a ~~Class D~~ **Class C** felony. However, the offense is a ~~Class E~~ **Class B** felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense.

(b) A person who violates subsection (a) commits a separate offense

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for each person whose serious bodily injury is caused by the violation of subsection (a).

(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 11. IC 9-30-5-5, AS AMENDED BY P.L.2-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

- (1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:
 - (A) one hundred (100) milliliters of the person's blood; or
 - (B) two hundred ten (210) liters of the person's breath;
- (2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or
- (3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense, or if the person operated the motor vehicle when the person knew that the person's driver's license, driving privilege, or permit is suspended or revoked for a previous conviction for operating a vehicle while intoxicated.

(b) A person at least twenty-one (21) years of age who causes the death of another person when operating a motor vehicle:

- (1) with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:
 - (A) one hundred (100) milliliters of the person's blood; or
 - (B) two hundred ten (210) liters of the person's breath; or
- (2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood;

commits a ~~Class B~~ Class A felony.

(c) A person who violates subsection (a) or (b) commits a separate offense for each person whose death is caused by the violation of subsection (a) or (b).

(d) It is a defense under subsection (a)(2) or subsection (b)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 12. IC 9-30-5-10, AS AMENDED BY P.L.172-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2008]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or IC 14-15-8, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section. **The court may require that a period of suspension recommended under this section be imposed, if applicable, before a period of incarceration or after a period of incarceration, or both before and after a period of incarceration, as long as the suspension otherwise complies with the periods established in this section.**

(b) If the court finds that the person:

- (1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or
- (2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than two (2) years.

(c) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court shall order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. However, the court may grant probationary driving privileges under this subsection without

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requiring the installation of an ignition interlock device if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse. The person granted probationary driving privileges under this subsection shall pay all costs associated with the installation of an ignition interlock device unless the sentencing court determines that the person is indigent.

(e) If the conviction under consideration by the court is for an offense under:

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- (3) IC 14-15-8-8(b); or
- (4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the offense, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

SECTION 13. IC 35-50-1-2, AS AMENDED BY P.L.1-2006, SECTION 549, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) As used in this section, "crime of violence" means **the following:**

- (1) Murder (IC 35-42-1-1).
- (2) Attempted murder (IC 35-41-5-1).
- (3) Voluntary manslaughter (IC 35-42-1-3).
- (4) Involuntary manslaughter (IC 35-42-1-4).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Aggravated battery (IC 35-42-2-1.5).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Rape (IC 35-42-4-1).
- (9) Criminal deviate conduct (IC 35-42-4-2).
- (10) Child molesting (IC 35-42-4-3).
- (11) Sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2).
- (12) Robbery as a Class A felony or a Class B felony (IC 35-42-5-1).
- (13) Burglary as a Class A felony or a Class B felony (IC 35-43-2-1). **or**
- (14) **Operating a motor vehicle while intoxicated** causing death

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~~when operating a motor vehicle~~ (IC 9-30-5-5).

(15) Operating a motor vehicle while intoxicated causing serious bodily injury to another person (IC 9-30-5-4).

(16) Resisting law enforcement as a felony (IC 35-44-3-3).

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the:

(1) aggravating circumstances in IC 35-38-1-7.1(a); and

(2) mitigating circumstances in IC 35-38-1-7.1(b);

in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the advisory sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted.

(d) If, after being arrested for one (1) crime, a person commits another crime:

(1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime; or

(2) while the person is released:

(A) upon the person's own recognizance; or

(B) on bond;

the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.

(e) If the factfinder determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.

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SECTION 14. [EFFECTIVE JULY 1, 2008] **IC 9-26-1-8, IC 9-30-5-3, IC 9-30-5-4, and IC 9-30-5-5, all as amended by this act, apply only to crimes committed after June 30, 2008."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1052 as printed February 22, 2008.)

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